

Before the
Federal Communications Commission
Washington, D.C. 20554

In the matter of

Telecommunications Relay Services
and Speech-to-Speech Services for
Individuals with Hearing and Speech
Disabilities

CC Docket No. 98-67

ORDER

Adopted: December 29, 2004

Released: December 30, 2004

By the Chief, Consumer & Governmental Affairs Bureau:

1. On May 3, 2004, the National Exchange Carrier Association, Inc. (NECA), the Interstate Telecommunications Relay Services (TRS) Fund Administrator, filed its annual Interstate Telecommunications Relay Services Fund Payment Formula and Fund Size Estimate for the July 1, 2004, to June 30, 2005, fund year.¹ That filing proposed TRS provider compensation rates for traditional TRS and IP Relay, Speech-to-Speech (STS), and Video Relay Service (VRS).² On June 30, 2004, the Consumer & Governmental Affairs Bureau (CGB) released the *2004 Bureau TRS Rate Order*,³ which approved – subject to certain possible adjustments – NECA's proposed TRS provider compensation rates for these services.⁴ The *2004 Bureau TRS Rate Order* expressly noted that the compensation rates adopted were subject to revision pending our review of: (1) any supplemental cost data relating to capital investment, and (2) any adjustments to cost disallowances challenged by a provider in response to that order.⁵

2. The *2004 Bureau TRS Rate Order* summarized these two possible adjustments as follows. First, because NECA had not included the permissible 11.25% rate of return on capital investment in determining its proposed rates, the *2004 Bureau TRS Rate Order* invited providers to

¹ NECA, *Interstate Telecommunications Relay Services Fund Payment Formula and Fund Size Estimate*, CC Docket No. 98-67, filed May 3, 2004 (*2004 NECA Filing*).

² See generally 47 U.S.C. § 225; 47 C.F.R. §§ 64.601 *et seq.* (the TRS regulations).

³ *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Order, CC Docket No. 98-67, DA 04-1999, 19 FCC Rcd 12224 (June 30, 2004) (*2004 Bureau TRS Rate Order*).

⁴ These rates are: \$1.349 per minute for traditional TRS and IP Relay; \$1.440 per minute for STS, and \$7.293 per minute for VRS. See *2004 Bureau TRS Rate Order* at ¶¶ 1-2.

⁵ *Id.* at ¶ 2.

submit supplemental cost data reflecting their capital investment for each form of TRS.⁶ The *2004 Bureau TRS Rate Order* provided that because of this omission, “the rates adopted in this order may be revised based on an analysis of how inclusion of a rate of return on capital investment for those providers who choose to submit supplemental cost data may affect the compensation rates.”⁷ Second, in calculating its proposed TRS compensation rates, NECA disallowed some of the submitted costs of some of the providers, but did not detail those disallowances in its *2004 NECA Filing*. The *2004 Bureau TRS Rate Order* noted that “because of confidentiality issues the details of the disallowances could not be set forth in NECA’s filing.”⁸ The *2004 Bureau TRS Rate Order* stated that, for the same reason, the cost disallowances could not be detailed in that order. The *2004 Bureau TRS Rate Order*, however, “invite[d] the providers to contact CGB if they want[ed] to review what costs specific to their filing were disallowed,” and stated that “[i]f, as a result of that review of the providers’ data, we conclude that certain disallowances should not have been made, the rates adopted herein will be adjusted accordingly.”⁹

3. Pursuant to these directions, some, but not all, of the providers elected to submit capital investment data and/or to challenge cost disallowances specific to their filing. We have reviewed the capital investment data submitted, and have made adjustments to the per minute compensation rates based on the inclusion of this data in the rate calculations. We have also reviewed all cost disallowances challenged by a provider, and as a result of that review we have added back some costs that were previously disallowed for the various TRS services.¹⁰ The inclusion of these costs has also resulted in adjustments to the compensation rates.

4. As a result of these adjustments in the underlying cost data, we have recalculated the compensation rates for each of the TRS services. As a result, effective for the July 1, 2004, to June 30, 2005, TRS fund year, the TRS compensation rates shall be as follows: for eligible traditional TRS and IP Relay, \$1.398 per minute (an increase of \$0.049); for eligible STS, \$1.596 per minute (an increase of \$0.156); and for eligible VRS, \$7.596 per minute (an increase of \$0.303). As a result of this adjustment to the TRS compensation rates, NECA is directed to make such supplemental payments to the providers for services compensated under the initial rates adopted in the *2004 Bureau TRS Rate Order* so that the providers’ compensation for services rendered beginning July 1, 2004, will be consistent with the rates adopted in this *Order*.¹¹

5. Accordingly, IT IS ORDERED, pursuant to the authority contained in 225 of the Communications Act of 1934, as amended, 47 U.S.C. § 225, and sections 0.141, 0.361 and 64.604(c)(5)(iii) of the Commission’s rules, that this ORDER is hereby ADOPTED.

6. IT IS FURTHER ORDERED that the TRS compensation rates for the 2004-2005 fund year as set forth in the *2004 Bureau TRS Rate Order* are hereby modified, retroactive to July 1, 2004.

⁶ *Id.* at ¶ 38.

⁷ *Id.*

⁸ *Id.* at ¶ 39.

⁹ *Id.* In approving NECA’s proposed compensation rates, subject to possible modification, the Bureau did not make additional cost disallowances beyond those reflected in NECA’s proposed rates.

¹⁰ Once again, because of provider confidentiality concerns, we cannot detail the cost adjustments reflected in this *Order*. Cf. *2004 Bureau TRS Rate Order* at ¶ 18 n.57. Those providers who had costs that have been added back will be so notified.

¹¹ Although the increased rates set forth in this *Order* will result in additional payments being made from the Interstate TRS Fund, we do not find it necessary at this time to modify the total fund size requirement or the carrier contribution factor as adopted in the *2004 Bureau TRS Rate Order*. See *2004 Bureau TRS Rate Order* at ¶ 1 (setting forth current fund size requirement and carrier contribution factor).

NECA shall compensate traditional telecommunications relay service (TRS) providers and IP Relay providers at the rate of \$1.398 per completed interstate conversation minute (and, for IP Relay, per completed intrastate conversation minute) for the period July 1, 2004, through June 30, 2005; Speech-to-Speech relay service (STS) providers at the rate of \$1.596 per completed interstate conversation minute for the period July 1, 2004, through June 30, 2005; and Video Relay Service (VRS) providers at the rate of \$7.596 per completed interstate or intrastate conversation minute for the period July 1, 2004, through June 30, 2005.

7. To request materials in accessible formats (braille, large print, electronic files, or audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at (202) 418-0530 (voice) or (202) 418-0432 (TTY). This *Order* can also be downloaded in Word and Portable Document Format (PDF) at <http://www.fcc.gov/cgb.dro>.

FEDERAL COMMUNICATIONS COMMISSION

K. Dane Snowden, Chief
Consumer & Governmental Affairs Bureau